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IN THE

# Supreme Court of the United States

October Term, 1942

No. 889

RICHARD PHILIP ADAMS, JOHN WALTER  
BORDENAVE, and LAWRENCE MITCHELL

v.

THE UNITED STATES OF AMERICA and  
JOHN S. RYAN, Warden

ON CERTIFICATE FROM THE UNITED STATES CIRCUIT  
COURT OF APPEALS FOR THE FIFTH CIRCUIT

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### BRIEF FOR RICHARD PHILIP ADAMS, JOHN WALTER BORDENAVE, AND LAWRENCE MITCHELL.

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**BRIEF FOR RICHARD PHILIP ADAMS,  
JOHN WALTER BORDENAVE, AND  
LAWRENCE MITCHELL.**

**Opinions Below.**

The District Court of the United States for the Western District of Louisiana rendered no opinion. The United States Circuit Court of Appeals for the Fifth Circuit has not rendered judgment.

**Jurisdiction.**

The certificate of the circuit court of appeals dated March 29, 1943, was filed in this Court on April 6, 1943. The jurisdiction of this Court is conferred by Section 239 of the Judicial Code as amended by the Act of February 13, 1925. See also Rule 37 of this Court.

### **Questions Presented.**

The questions certified are the following:

1. Is the effect of the Act of October 9, 1940, [c. 793, 54 Stat. 1083; R. S. 355, as amended (40 U. S. C. 255)] to provide that, as to lands within a State thereafter acquired by the United States, no jurisdiction exists in the United States to enforce the criminal laws embraced in United States Code, Title 18, Chapter 11, and especially Section 457 relating to rape, by virtue of Section 451, Third, as amended June 11, 1940, unless and until a consent to accept jurisdiction over such lands is filed in behalf of the United States as provided in said Act?
2. Had the District Court of the Western District of Louisiana jurisdiction, on the facts above set out, to try and sentence the appellants for the offense of rape committed within the bounds of Camp Claiborne on May 10, 1942?

### **Statement.**

The following statement of facts is contained in the certificate:

"Case No. 10410 is an appeal from a conviction and a death sentence had in the District Court of the United States for the Western District of Louisiana on August 10, 1942, for the offense of rape, under Section 272 Third, and Section 278 of the United States Criminal Code, as amended, 18 U. S. C. A. §§ 451, 457. A question not raised on the trial, but raised on appeal, is whether the place of the commission of the offense was at the time within the jurisdiction of the United States so as to make applicable the cited criminal law. In aid of the appeal, and invoking as a precedent *Adams v. United States* [Ex rel. McCann, 317 U. S. 269], decided by the

Supreme Court December 21, 1942, the appellants applied to this Court for a writ of habeas corpus against the warden having them in custody, alleging the custody to be based on a void commitment for the single reason that the United States had no jurisdiction to punish the crime of rape at the place and time it was alleged to have been committed. This is case No. 10568. The order to show cause why the writ should not be issued was answered by the United States. The question presented by the main appeal, as to jurisdiction, is the same as that presented by the application for the writ of habeas corpus. The two matters were argued together and are before us for decision.

"The proven facts are that the lands occupied by Camp Claiborne, in Rapides Parish in the Western District of Louisiana, were in the summer of 1940 under contract to be sold by Branch E. Smith to the United States, and were to be used for a national forest under the supervision of the Secretary of Agriculture. The Secretary of Agriculture by letter to the Secretary of War agreed to their use for military purposes. Title in fee simple was conveyed to the United States by Smith December 19, 1940, and the act of sale was duly recorded the same day. On February 18, 1941, another act correcting the former one was made and recorded. Camp Claiborne, a military reservation, embracing several thousand acres, was thereafter established on the land, temporary buildings and tents were erected, and soldiers were stationed and being trained there, but no fort or arsenal or dockyard is shown to exist there. The three appellants, who were then and there soldiers in service at the camp, are charged with, and by the jury have been found guilty of, on the tenth day of May 1942, within the limits of the camp, raping a civilian woman. At that time, and at the time of their trial, neither the Secretary of Agriculture nor the Secretary of War nor any other authorized person had in behalf of the United States filed with the Governor

of Louisiana, or in any other manner prescribed by the law of Louisiana, a notice of acceptance of jurisdiction over the lands above mentioned, as provided in United States Code, Title 40, Section 255, as amended by the Act of October 9, 1940, 54 Stats. 1083."

### **Summary of Argument.**

R. S. 355, as amended February 1, 1940 (40 U. S. C., Section 255) provides that the United States shall obtain "exclusive or partial" jurisdiction over lands only by filing an acceptance of such jurisdiction with the appropriate state authority. Since no acceptance was filed, the United States did not have jurisdiction over the land upon which the crime was alleged to have been committed.

### **ARGUMENT.**

**The District Court did not have jurisdiction to try and sentence the appellants for the offense of rape.**

Appellants below were convicted of the crime of rape alleged to have been committed on May 10, 1942 within the bounds of Camp Claiborne, a military reservation in Louisiana. Title in fee simple to the lands of the reservation had been conveyed to the United States on December 19, 1940, and the lands were to be used for a national forest under the supervision of the Secretary of Agriculture. The Secretary of Agriculture agreed to permit their use for military purposes. It was not until January 2, 1943, that the Secretary of War wrote to the Governor of Louisiana, accepting jurisdiction over the lands in question (Appendix B, Brief for the United States).

The effect of R. S. 355, as amended February 1, 1940 (Appendix A, Brief for the United States) is that no juris-

diction existed in the United States to enforce the criminal laws relating to rape, as against the appellants below, at the time and place it was alleged to have been committed, as there was no consent to accept jurisdiction over such lands filed in behalf of the United States as provided in said Act. The District Court of the Western District of Louisiana had, therefore, no jurisdiction to try and sentence the appellants below for the offense alleged to have been committed within the bounds of Camp Claiborne on May 10, 1942.

The Brief for the United States adequately presents the authorities relevant to the determination of the issues involved.

### ***Conclusion.***

It is respectfully submitted that an answer in the affirmative be given to the first question certified, and an answer in the negative to the second question certified.

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Dated May 6th, 1943.